

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

UNITED STATES OF AMERICA

CRIMINAL NO. 3:19-CR-507-L

v.

SEKHAR RAO

**GOVERNMENT’S AMENDED PROPOSED VOIR DIRE QUESTIONS**

Pursuant to Rule 24 of the Federal Rules of Criminal Procedure, the United States, through undersigned counsel, files this Amended Notice of Proposed Voir Dire Questions, which includes and supplements the Proposed Voir Dire previously filed by the government on October 5, 2021 (Dkt. 55). The government hereby requests that the Court ask the jury panel the following questions, in addition to any other questions the Court may ask. Questions for panel members who respond to the initial inquiry appear in *italics*.

**General Questions**

**Preliminary:** If any of you believe that your answer to any of the questions asked would be embarrassing to you personally if answered in the presence of everyone in the courtroom, please let me know and you will be allowed to reply to me and the attorneys privately.

1. Please raise your hand if you personally know Chad E. Meacham, the acting United States Attorney, or any members of his staff. *Would that acquaintance affect your ability to be fair and impartial in this case?*

2. Please raise your hand if you personally know Jamie de Boer or Lee Hirsch, the attorneys representing the United States in this case. *Would that acquaintance affect your ability to be fair and impartial in this case?*

3. Please raise your hand if you personally know Sekhar Rao, the defendant in this case. *Would that acquaintance affect your ability to be fair and impartial in this case?*

4. Please raise your hand if you personally know Stephen Green, Jeffrey Clark, or Gregg Gallian, the defense attorneys in this case. *Would that acquaintance affect your ability to be fair and impartial in this case?*

5. Please raise your hand if any of you are related to, or acquainted with, any one of the following witnesses that may testify in this case. (Please have government and defense attorneys read witness lists.) *Would that relationship or acquaintance affect your ability to be fair and impartial in this case?*

6. Please raise your hand if you recognize another member of the jury panel as being a relative, close friend, or associate. *Would that relationship or acquaintance affect your ability to be fair and impartial in this case?*

7. Please raise your hand if you have any philosophical, moral, or religious beliefs that would make you uncomfortable about sitting in judgment of another human being, in other words judging the guilt or innocence of another person. *How would your beliefs affect your consideration of this case?*

8. Please raise your hand if you feel that a defendant cannot receive a fair trial in our judicial system. *What are your thoughts on that subject?*

9. Just as the defendant is entitled to a fair trial, so is the government, represented here by attorneys from the Department of Justice. Is there anyone who, because of something in your background or beliefs, something you've seen or heard on television or radio, or have read in the newspapers, cannot give the government the same fair trial in this type of case that you will give the defendant? *Please explain.*

10. Please raise your hand if you have ever had a personal interest in the outcome of a criminal case. In other words, if you, a member of your family, or a close friend have been the victim of a crime, arrested for or charged with a crime (other than a traffic ticket), or a witness to a crime, please raise your hand.

a. *Please explain, (i.e. were you a victim, accused of a crime, or a witness)*

b. *Would that experience affect your consideration of this case? How?*

11. Please raise your hand if you, your relatives, or your close friends have ever been a party to any legal action or proceeding involving the United States, its officers, agents, or employees. This would include civil proceedings, such as social security benefits, tax payments, or immigration issues involving the federal government. *Would that experience affect your consideration of this case? How?*

12. Please raise your hand if you have served on a jury in federal or state court trial. *Was it a civil or criminal case? What type of case was it? Were you able to reach a verdict?*

13. At the conclusion of the case, jurors will have to make their decisions based on the law, which I will give to the jury in my instructions, even if the jurors

disagree with the law. As jurors, you are required to follow the law that I give you, even if you disagree with it. Please raise your hand if you believe you might not be able to follow my instructions regarding laws you disagree with. *What are your thoughts on that subject?*

14. For example, the defendant is charged in the indictment with Conspiracy to Commit Health Care Fraud and Health Care Fraud. You will get more detailed instructions at the close of the case, but understand that a “conspiracy” is an agreement between two or more persons to knowingly join together to accomplish some unlawful purpose. One may become a member of a conspiracy without knowing all the details of the unlawful scheme or the identities of all the other alleged conspirators, and even minor players can be part of the conspiracy if they knowingly agreed to do something unlawful. Is there anyone who thinks that someone who does not know all of the details or is only a minor player can never be part of a conspiracy?

15. The government need not prove that an alleged conspirator entered into any formal or written agreement, nor that they directly stated between themselves all the details of the scheme. Is anyone uncomfortable that the government does not have to prove a formal or written agreement?

16. The law provides that the defendant is innocent until proven guilty. Is there anyone who believes that the defendant is guilty simply because he has been charged with a crime? Is there anyone who cannot keep an open mind and wait to decide whether the defendant is guilty or not guilty until you have heard all of the evidence in the case?

17. The law provides that the government must prove the guilt of the defendant beyond a reasonable doubt. That is the highest burden contemplated in our judicial system, but it is not an insurmountable burden. Please raise your hand if you think that government's burden of proof should be even higher, such as beyond a shadow of a doubt, or beyond any doubt. *What are your thoughts on that subject?*

18. If the United States proves the guilt of the Defendant beyond a reasonable doubt as to the crimes charged in the indictment, would any of you have difficulty in returning a verdict of guilty?

19. It is my duty, as judge, to determine punishment if you find, after considering the evidence and my instructions as to the law you must apply, that the defendant is guilty of one or more counts in the indictment. The law does not permit you to consider the issue of punishment because there are factors, having nothing to do with this trial, which will help me determine the appropriate sentence, if any. Is there anyone who feels that he or she might take the potential punishment into account when deliberating on a verdict? In other words, is there anyone who would vote "not guilty" simply because of the possible sentence that I might later impose?

20. This case was investigated by the Defense Criminal Investigative Service (or DCIS), the U.S. Department of Health and Human Services Office of Inspector General (or HHS-OIG), and the Federal Bureau of Investigation (or FBI). Please raise your hand if you, your relatives, or close friends, have had any experience with any of these agencies, the Department of Justice, the United States Attorney's Office, or any

other law enforcement agency (state or federal) that might influence your ability to be fair and impartial in this case.

21. Witnesses in this case may include federal agents. Would any of you be more likely to believe the testimony of a federal agent, just because that witness is a federal agent? Would any of you be less likely to believe the testimony of a federal agent, just because that witness is a federal agent?

22. If you are selected as a juror, I anticipate that you will hear both direct and circumstantial evidence during the trial. Direct evidence is direct proof of a fact, such as testimony of an eyewitness. Circumstantial evidence is proof of facts from which you may infer or conclude that other facts exist.<sup>1</sup> I will instruct you that the law makes no distinction between the weight you may give to either direct or circumstantial evidence, meaning that just because a fact is proven by circumstantial evidence, it can carry just as much weight as a fact proved by direct evidence. *Notwithstanding this instruction, does anyone believe that they would not be able to convict a defendant just because the defendant's guilt was established through circumstantial evidence?*

23. This case will involve reading documents, including medical documents, written in English. Is there anyone who has difficulty understanding or reading the English language?

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<sup>1</sup> Fifth Circuit Pattern Jury Instructions No. 1.01 (Criminal 2019)..

24. Can you think of any reason, if you are chosen to sit on this jury, why you might not be able to render a fair and impartial verdict based solely upon the evidence and the law as I will instruct you at the conclusion of the case?

**Questions Regarding COVID-19**

25. Please raise your hand if you or someone in your household is at high risk for complications from contracting COVID-19 because of age, medical condition, or other characteristic.

26. Please raise your hand if you are a healthcare worker directly involved in the treatment of COVID-19 patients, or work in a field that puts you in direct contact with people who have been diagnosed with COVID-19.

27. Please raise your hand if you have childcare or elder care concerns that make it difficult for you to serve as a juror as a result of COVID-19.

28. Please raise your hand if you would be unable to wear a mask and abide by the Court's social distancing requirements throughout your service as a juror.

29. Please raise your hand if you think you would have difficulty hearing and/or understanding court personnel, attorneys, and witnesses who are wearing a mask or face shield.

**Case-Specific Questions**

30. In this case, the defendant is charged with conspiring to commit health care fraud and with committing health care fraud. Is there anyone who would have difficulty being fair and impartial to either the defendant or the government simply because of the nature of the case and the type of charges involved?

31. In this case the government may call as witnesses one or more individuals who has entered into a plea agreement with the government and pled guilty to a crime. Plea agreements typically provide for the dismissal of some charges or a recommendation for a favorable sentence. Such plea bargaining, as it is called, has been approved as lawful and proper, and is expressly provided for in the rules of this court.<sup>2</sup> Is there anything about such testimony that would make you unable to sit fairly and impartially as a juror? Do you believe the Government should not present the testimony of a cooperating witness? Do you believe that such testimony is more or less believable?

32. Do you believe that you will be able to fairly and impartially consider the testimony of cooperating witnesses with all other evidence? Could you keep an open mind and listen to the testimony of the witnesses and consider it with all the other evidence in the case before deciding whether to believe the witness or not? Is there anyone who thinks they cannot do that?

33. Please raise your hand if you, an immediate family member, or close friend have ever worked in the health care industry. *Please explain.*

34. Please raise your hand if you have ever had a negative experience with a health care provider or health insurance program. *Please explain.*

35. Please raise your hand if you have ever had a urine drug or toxicology test? *Please explain.*

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<sup>2</sup> Fifth Circuit Pattern Jury Instructions No. 1.16 (Criminal 2019).

36. Please raise your hand if you have ever had a DNA cancer risk screening test? *If yes, what type of test? Was the test prescribed by a medical professional? Were you consulted about the risks and benefits of the test? Were you provided the results of your test and were they explained to you? Do you know how much your insurance was billed for the test?*

37. Please raise your hand if you, any member of your immediate family, or any close friend ever worked for the Defense Health Agency or any other government entity that provides or administers health care services. *Please explain.*

38. Please raise your hand if you or any member of your immediate family are currently eligible for and using TRICARE benefits. *Please explain who is eligible, when they became eligible, and the general nature of the benefits the person uses.*

39. Please raise your hand if you, your relatives, or close friends have had a bad experience with TRICARE that might affect your ability to be fair and impartial in this case?

40. Do you have any strong opinions (good or bad) about TRICARE generally? *Please explain.*

41. Is there anyone who believes that if someone lies to TRICARE to get money from TRICARE, then TRICARE is somehow (or at least partially) at fault?

42. You may hear testimony from individuals who have served, or currently serve, in a branch of the United States military, or their family members. Is there anyone who would be more likely to believe testimony from such a witness simply because they are associated with the military? Is there anyone who would be less likely

to believe testimony from such a witness simply because they are associated with the military?

43. You may hear testimony from individuals who have struggled with substance abuse and who have sought treatment for substance abuse. Is there anyone who has had experiences with individuals struggling with substance abuse that believes that such individuals are dishonest?

44. Please raise your hand if you have had experience with substance abuse treatment, either personally or through a member of your family or close friend who has undergone treatment for a drug or alcohol addiction? *Please explain.*

45. Have you, or any member of your family, or close friends, to the best of your knowledge, been a victim of health care fraud? In other words, was your health insurance ever billed for services that you did not need or that you did not receive?

46. Have you, or any member of your family, or close friends, to the best of your knowledge, ever been investigated for health care fraud? If so, what were the circumstances?

Respectfully submitted,

CHAD E. MEACHAM  
ACTING UNITED STATES ATTORNEY

JOSEPH S. BEEMSTERBOER  
ACTING CHIEF, FRAUD SECTION

/s/ Jamie de Boer

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### **CERTIFICATE OF SERVICE**

I certify that on May 31, 2022, I electronically filed the forgoing document with the Clerk of Court for the United States District Court, Northern District of Texas using the CM/ECF system.

/s/ Jamie de Boer

Jamie de Boer

Trial Attorney